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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Revision of the Commission's Rules)
to Ensure Compatibility With)
Enhanced 911 Emergency Calling)
Systems)

CC Docket No. 94-102

To: The Commission

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COMMENTS OF THE AD HOC RURAL CELLULAR COALITION ON THE "CONSENSUS AGREEMENT" BETWEEN CTIA AND PUBLIC SAFETY GROUPS

The Ad Hoc Rural Cellular Coalition ("RCC"), by its attorneys and pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission"), submits these Comments in response to the ex parte presentation titled "Public Safety-Wireless Industry Consensus: Wireless Compatibility Issues, CC Docket 94-102" ("Consensus Agreement") filed on February 13, 1996 by the Cellular Telecommunications Industry Association ("CTIA") and three public safety organizations -- National Emergency Number Association ("NENA"), Association of Public-Safety Communications Officials ("APCO") and National Association of State Nine One One Administrators ("NASNA").¹

¹ Invitation to comment on the Consensus Agreement was extended by the Commission in a Public Notice (DA 96-198) dated February 16, 1996.

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I. STATEMENT OF INTEREST

RCC is comprised of rural cellular carriers providing service to rural America.² As providers of cellular radio service, RCC's members would be affected by adoption of the Consensus Agreement's proposal that commercial mobile radio service ("CMRS") providers (also referred to herein as "wireless carriers") meet certain requirements with respect to making their systems compatible with enhanced 911 ("E911") services. Accordingly, RCC appreciates the opportunity to comment on the issues raised by that agreement.

II. COMMENTS

Preliminarily, RCC must point out the misleading title of the Consensus Agreement. The reference to "Wireless Industry Consensus" is a misnomer. While CTIA represents a segment of the wireless industry, it does not represent the industry as a whole. As discussed below, RCC does not disagree with the thrust of the Consensus Agreement. However, RCC's members were not consulted with respect to the "consensus" reached by CTIA, and RCC does not wish to represent to the Commission that it was part of that agreement.

² RCC member companies include: Iowa RSA 11 Limited Partnership (Iowa), Cellular Mobile Systems of St. Cloud General Partnership (Minnesota), Mid-Tex Cellular, LTD. (Texas), Arctic Slope Telecommunications and Cellular, Inc. (Alaska), CT Cube, Inc. (Texas), Leaco Rural Telephone Cooperative, Inc. (New Mexico), Plateau Cellular Network (New Mexico) and CGKC&H No. 2 Cellular Limited Partnership (Texas).

A. Phase I Implementation Should Be Conditioned on Carriers' Technical Capabilities

The Consensus Agreement proposes a two step implementation schedule for E911. In the first phase, within 12 or 18 months after an order is adopted, wireless carriers would be required to implement cell site information, calling party automatic number identification ("ANI"), 911 availability from any service initialized mobile radio handset, 911 access for speech and hearing impaired callers using text telephone devices, and call back capability. RCC accepts the Consensus Agreement's conclusion with respect to Phase I obligations as reasonable, provided that both LECs and CMRS providers have the capability of implementing such steps within 18 months after adoption of an order in this proceeding. If a carrier is incapable of implementing these steps within the 18 month period, a waiver of these requirements should be presumed to be in the public interest. RCC urges the Commission to make clear in its order that cellular carriers unable to meet this 18 month deadline be allowed to justify whatever additional period of time is necessary for the carrier to meet the Phase I obligations given the particular circumstances of the carrier.

B. Automatic Location Information ("ALI") Should Not Be Required in Rural Areas

In the second phase of the implementation schedule proposed in the Consensus Agreement, wireless carriers would have five years in which to achieve automatic location (in latitude and longitude) of wireless callers within 125 meters (derived using Root Mean Square

(RMS) calculation). While RCC commends the Commission for its attempt to improve the accuracy of ALI techniques in urban environments, such an approach is both impractical and unnecessary in a rural environment.

One of the most common methods of ALI is based on a technique known as triangulation, by which a mobile handset may be located by measuring the amount of time a transmission signal takes to reach three separate points (i.e., cell sites) in a triangular formation. The configuration of wireless systems in most rural environments does not allow for the effective use of triangulation due to the spacing of rural cell sites and other geographic factors. Because of the wide distances between rural cell sites, as well as the existence of uneven terrain and other natural barriers, the use of triangulation in such environments simply cannot produce an ALI result with any degree of accuracy. In order to comply with the requirements proposed in the Consensus Agreement, RCC members and other rural carriers would be forced to construct additional cell sites. The construction of such additional sites would be technically and economically unnecessary, justified neither by the amount of existing or potential demand for wireless service in those areas.

Indeed, not only is the use of ALI in a rural environment impractical, it is totally unnecessary. Callers in rural areas are generally able to describe their location when making an emergency

call. While it may be relatively easy to find one's self "lost" in a strange urban environment, in the wide open spaces of rural America it is difficult not to be found. Moreover, ALI is useless without the existence of a public service answering point ("PSAP"). 911 and E911 services are not even available in most of the country. In its comments filed earlier in this proceeding, CTIA pointed out that 911 and E911 services remain unavailable to approximately 65% of the geographic area comprising the United States, and to 25% of the population.³ Accordingly, in most of rural America, there are no PSAPs capable of processing any ALI information that a wireless carrier would provide!

The Consensus Agreement correctly recognizes the difficulties that wireless carriers would have in delivering accurate ALI in rural areas:

Rural or other thinly-populated areas may have system configurations which, without augmentation at special expense, would not deliver accurate ALI. Similarly, pockets obstructed by natural or artificial barriers might not be amenable to the techniques used to deliver ALI successfully in most of the serving area. In addition, carriers already have deployed, or will deploy, technologies for which there is no commercially available ALI solution. For example, no means now exists to provide ALI in tunnels where carriers must use coaxial cable ("leaky coax") antennas to provide wireless service.⁴

Indeed, the parties to the Consensus Agreement acknowledge that

³ CTIA Comments at p. 16.

⁴ Consensus Agreement at p. 3, n. 8.

"the 125-meter RMS standard may be difficult or impossible to meet" for some rural carriers.⁵ Having admitted this fact, the Consensus Agreement nonetheless fails to exclude carriers serving rural areas from the ambit of the proposed requirements. Rather, the parties state that they "have agreed to work on this [problem] in good faith as an 'implementation' issue which need not delay the adoption of the general rule."⁶

While RCC does not doubt the parties' good faith intent to address and resolve this problem, RCC strongly opposes the adoption of any "general rule" that does not explicitly exempt rural cellular carriers and other affected wireless carriers from the Phase II requirements proposed by the Consensus Agreement. Should the Commission adopt the proposed general ALI requirement, the rule must contain a concrete exception for rural carriers who are able to certify that their present system configurations do not allow for the accurate implementation of ALI technology. Without such an exemption, CMRS providers serving rural areas will be forced to make large unnecessary expenditures which will simply result in uneconomic cost increases to their customers, thereby decreasing consumer demand for wireless services and slowing the transition to a fully competitive environment that the Commission and Congress

⁵ Id. at p. 3.

⁶ Id.

have so long been striving to achieve.⁷ Ironically, if existing and potential consumers of wireless services deem such services too costly as a result of a Commission mandate to deliver ALI, and therefore elect not to utilize such services, much of the anticipated public interest benefit of expanded 911 capability may be lost.

C. Funding E911 Through a "Consumer Fee" is Appropriate

The Consensus Agreement suggests that the upfront installation and ongoing operation of E911 technology be funded by a "consumer fee." The fee would fund both carrier (wireless and wireline) and PSAP investment in E911 technology and 911 cost of service, and would not exceed the relevant landline 911 fees. RCC endorses the position set forth in the Consensus Agreement.

D. Legal Liability Should Not Be Imposed on Providers of 911 and E911 Service

CMRS providers should not be held liable as a result of their provision of E911 service. Because CMRS providers may not tariff their services, and therefore may not limit their liability, as wireline carriers do, pursuant to tariff, a federal rule limiting the liability of wireless service providers in their provision of 911 and E911 services is necessary. RCC agrees with the parties to

⁷ See generally Amendment of the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Service, Notice of Proposed Rule Making, WT Docket No. 9606, released January 25, 1996; Telecommunications Act of 1996, Conference Report, Joint Explanatory Statement of the Committee of the Conference, Cong. Rec. H1107 (daily ed. Jan. 31, 1996).

the Consensus Agreement that the wireline experience, in which callers generally have been held to consent implicitly to the disclosure of calling number, location and associated information, is applicable to wireless 911 communications, and that state "Good Samaritan" statutes should also apply to such communications.

Conclusion

For the foregoing reasons, RCC respectfully requests that the Federal Communications Commission act in a manner consistent with the views expressed herein.

Respectfully submitted,

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